

FILED
Clerk
District Court

MAR 11 2008

For The Northern Mariana Islands
By _____
(Deputy Clerk)

UNITED STATES DISTRICT COURT
NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)

Criminal Case No. 08-00002

Plaintiff,)

JURY INSTRUCTIONS

V.

Trial: March 10, 2008

Time: 9:00 a.m.

Judge: Hon. Alex R. Munson

AMIN, MOHAMAD RUHUL,

Defendant. }

1. **FUNCTION OF JURY**

MEMBERS OF THE JURY, NOW THAT YOU HAVE HEARD ALL OF THE EVIDENCE, IT IS MY DUTY TO INSTRUCT YOU ON THE LAW WHICH APPLIES TO THIS CASE. A COPY OF THESE INSTRUCTIONS WILL BE AVAILABLE IN THE JURY ROOM FOR YOU TO CONSULT.

IT IS YOUR DUTY TO FIND THE FACTS FROM ALL OF THE EVIDENCE IN THE CASE. TO THOSE FACTS, YOU WILL APPLY THE LAW AS I GIVE IT TO YOU. YOU MUST FOLLOW THE LAW AS I GIVE IT TO YOU WHETHER YOU AGREE WITH IT OR NOT. YOU MUST NOT BE INFLUENCED BY ANY PERSONAL LIKES OR DISLIKES, OPINIONS, PREJUDICES, OR SYMPATHIES. THAT MEANS THAT YOU MUST DECIDE THE CASE SOLELY ON THE EVIDENCE BEFORE YOU. YOU WILL RECALL THAT YOU TOOK AN OATH PROMISING TO DO SO AT THE BEGINNING OF THE CASE.

IN FOLLOWING MY INSTRUCTIONS, YOU MUST FOLLOW ALL OF THEM, AND NOT SINGLE OUT SOME AND IGNORE OTHERS; THEY ARE ALL EQUALLY IMPORTANT. YOU MUST NOT READ INTO THESE INSTRUCTIONS, OR INTO ANYTHING THE COURT MAY HAVE SAID OR DONE, ANY SUGGESTION AS TO WHAT VERDICT YOU SHOULD RETURN -- THAT IS A MATTER ENTIRELY UP TO YOU.

1 **2. THE UNITED STATES AS A PARTY**

2 YOU ARE TO PERFORM THE DUTY OF FINDING THE FACTS WITHOUT BIAS
3 OR PREJUDICE AS TO ANY PARTY. YOU ARE TO PERFORM YOUR FINAL DUTY IN
4 AN ATTITUDE OF COMPLETE FAIRNESS AND IMPARTIALITY. THE CASE IS
5 IMPORTANT TO THE GOVERNMENT BECAUSE THE ENFORCEMENT OF CRIMINAL
6 LAW IS A MATTER OF PRIME IMPORTANCE TO THE COMMUNITY. EQUALLY, IT IS
7 IMPORTANT TO THE DEFENDANT WHO IS CHARGED WITH SERIOUS CRIMES. THE
8 FACT THAT THE PROSECUTION IS BROUGHT IN THE NAME OF THE UNITED STATES
9 OF AMERICA ENTITLES THE GOVERNMENT TO NO GREATER CONSIDERATION
10 THAN THAT ACCORDED TO ANY OTHER PARTY TO A CASE. BY THE SAME TOKEN,
11 IT IS ENTITLED TO NO LESS CONSIDERATION. ALL PARTIES, WHETHER THE
12 GOVERNMENT OR INDIVIDUALS, STAND AS EQUALS AT THE BAR OF JUSTICE.

13 THE QUESTION BEFORE YOU CAN NEVER BE: WILL THE GOVERNMENT WIN
14 OR LOSE THE CASE. THE GOVERNMENT ALWAYS WINS WHEN JUSTICE IS DONE.
15 JUSTICE IS ACHIEVED WHEN YOU, THE JURY, RETURN A UNANIMOUS VERDICT,
16 REGARDLESS WHETHER THE VERDICT IS NOT GUILTY OR GUILTY.

1 **3. INDICTMENT IS NOT EVIDENCE**

2 THE INDICTMENT IS NOT EVIDENCE. THE DEFENDANT HAS PLEADED NOT
3 GUILTY TO THE CHARGE. THE DEFENDANT IS PRESUMED TO BE INNOCENT AND
4 DOES NOT HAVE TO TESTIFY OR PRESENT ANY EVIDENCE TO PROVE HIS
5 INNOCENCE. THE GOVERNMENT HAS THE BURDEN OF PROVING EVERY ELEMENT
6 OF THE CHARGES BEYOND A REASONABLE DOUBT.

1 **4. RIGHT NOT TO TESTIFY**

2 A DEFENDANT IN A CRIMINAL CASE HAS A CONSTITUTIONAL RIGHT NOT
3 TO TESTIFY. NO PRESUMPTION OF GUILT MAY BE RAISED, AND NO INFERENCE OF
4 ANY KIND MAY BE DRAWN, FROM THE FACT THAT THE DEFENDANT DID NOT
5 TESTIFY.

1 **5. PRESUMPTION OF INNOCENCE**

2 AS I TOLD YOU AT THE OUTSET OF THE TRIAL, THIS IS A CRIMINAL CASE IN
3 WHICH THE DEFENDANT IS CHARGED WITH VIOLATING CERTAIN LAWS OF THE
4 UNITED STATES. THE CHARGES, HOWEVER, ARE ONLY ALLEGATIONS. THE
5 DEFENDANT IS PRESUMED TO BE INNOCENT OF THOSE CHARGES UNLESS AND
6 UNTIL YOU, THE JURY, FIND BEYOND A REASONABLE DOUBT THAT THE
7 DEFENDANT IS GUILTY OF ANY OFFENSE ALLEGED IN THE INDICTMENT.

1 **6. BURDEN OF PROOF**

2 IN A CRIMINAL CASE, THE GOVERNMENT ALWAYS HAS THE BURDEN OF
3 PROOF. TO OVERCOME THE PRESUMPTION OF INNOCENCE AND PROVE THE
4 DEFENDANT GUILTY OF AN OFFENSE, THE GOVERNMENT MUST PROVE BEYOND A
5 REASONABLE DOUBT EACH AND EVERY ELEMENT OF THAT OFFENSE AS
6 CHARGED IN THE INDICTMENT.

1 **7. REASONABLE DOUBT**

2 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU
3 FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY. IT IS NOT REQUIRED
4 THAT THE GOVERNMENT PROVE GUILT BEYOND ALL POSSIBLE DOUBT.

5 A REASONABLE DOUBT IS A DOUBT BASED UPON REASON AND COMMON
6 SENSE AND IS NOT BASED PURELY ON SPECULATION. IT MAY ARISE FROM A
7 CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE, OR FROM A
8 LACK OF EVIDENCE.

9 IF, AFTER A CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE
10 EVIDENCE, YOU ARE NOT CONVINCED BEYOND A REASONABLE DOUBT THAT THE
11 DEFENDANT IS GUILTY, IT IS YOUR DUTY TO FIND THE DEFENDANT NOT GUILTY.
12 ON THE OTHER HAND, IF AFTER A CAREFUL AND IMPARTIAL CONSIDERATION OF
13 ALL THE EVIDENCE, YOU ARE CONVINCED BEYOND A REASONABLE DOUBT THAT
14 THE DEFENDANT IS GUILTY, IT IS YOUR DUTY TO FIND THE DEFENDANT GUILTY.

1 **8. EVIDENCE: WHAT IS EVIDENCE**

2 THE EVIDENCE FROM WHICH YOU ARE TO DECIDE THE FACTS OF THIS
3 CASE ARE:

- 4 1. THE SWORN TESTIMONY OF ANY WITNESS;
 - 5 2. THE EXHIBITS WHICH HAVE BEEN RECEIVED INTO EVIDENCE;
 - 6 3. ANY FACTS TO WHICH THE LAWYERS HAVE STIPULATED; AND
 - 7 4. ANY FACTS OF WHICH THE COURT HAS TAKEN JUDICIAL NOTICE.
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1 **9. EVIDENCE: WHAT IS NOT EVIDENCE**

2 IN REACHING YOUR VERDICT, YOU MAY CONSIDER ONLY THE EVIDENCE
3 THAT THE COURT HAS RECEIVED, THAT IS, THE TESTIMONY, EXHIBITS, AND ANY
4 STIPULATIONS. CERTAIN THINGS, HOWEVER, ARE NOT EVIDENCE AND YOU MAY
5 NOT CONSIDER THEM IN DECIDING THE FACTS. I WILL LIST THEM FOR YOU:

6 1. ARGUMENTS AND STATEMENTS BY LAWYERS ARE NOT EVIDENCE.

7 THE LAWYERS ARE NOT WITNESSES. WHAT THEY SAY IN THEIR
8 OPENING OR CLOSING STATEMENTS, AND AT OTHER TIMES, IS
9 INTENDED TO HELP YOU INTERPRET THE EVIDENCE, BUT IT IS NOT
10 EVIDENCE. IF THE FACTS AS YOU REMEMBER THEM DIFFER FROM
11 THE WAY THE LAWYERS STATE THEM, YOUR MEMORY OF THEM
12 CONTROLS.

13 2. QUESTIONS AND OBJECTIONS BY LAWYERS ARE NOT
14 EVIDENCE. ATTORNEYS HAVE A DUTY TO THEIR CLIENTS TO
15 OBJECT WHEN THEY BELIEVE A QUESTION IS IMPROPER UNDER THE
16 RULES OF EVIDENCE. YOU SHOULD NOT BE INFLUENCED BY THE
17 QUESTION, THE OBJECTION, OR THE COURT'S RULING ON IT.

18 3. TESTIMONY THAT HAS BEEN EXCLUDED OR STRICKEN, OR THAT YOU
19 HAVE BEEN INSTRUCTED TO DISREGARD, IS NOT EVIDENCE AND
20 MUST NOT BE CONSIDERED. IN ADDITION, SOME TESTIMONY AND
21 EXHIBITS MAY HAVE BEEN RECEIVED ONLY FOR A LIMITED
22 PURPOSE; WHERE I HAVE GIVEN A LIMITING INSTRUCTION, YOU
23 MUST FOLLOW IT.

24 4. ANYTHING YOU MAY HAVE SEEN OR HEARD WHEN THE COURT WAS
25 NOT IN SESSION IS NOT EVIDENCE. YOU ARE TO DECIDE THE CASE
26 SOLELY ON THE EVIDENCE RECEIVED AT THE TRIAL.
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1 **10. EVIDENCE: DIRECT AND CIRCUMSTANTIAL**

2 THERE ARE TWO KINDS OF EVIDENCE, DIRECT AND CIRCUMSTANTIAL.
3 DIRECT EVIDENCE IS DIRECT PROOF OF A FACT, SUCH AS TESTIMONY OF AN
4 EYEWITNESS. CIRCUMSTANTIAL EVIDENCE IS INDIRECT EVIDENCE, THAT IS,
5 PROOF OF A CHAIN OF FACTS FROM WHICH YOU COULD FIND THAT ANOTHER
6 FACT EXISTS, EVEN THOUGH IT HAS NOT BEEN PROVED DIRECTLY. YOU ARE TO
7 CONSIDER BOTH KINDS OF EVIDENCE. THE LAW PERMITS YOU TO GIVE EQUAL
8 WEIGHT TO BOTH, BUT IT IS FOR YOU TO DECIDE HOW MUCH WEIGHT TO GIVE TO
9 ANY EVIDENCE.

11. **CONSIDERATION OF THE EVIDENCE**

IN DECIDING THE FACTS IN THIS CASE, YOU MAY HAVE TO DECIDE WHICH TESTIMONY TO BELIEVE AND WHICH TESTIMONY NOT TO BELIEVE. YOU MAY BELIEVE EVERYTHING A WITNESS SAYS, OR PART OF IT, OR NONE OF IT.

IN CONSIDERING THE TESTIMONY OF ANY WITNESS, YOU MAY TAKE INTO ACCOUNT:

1. THE OPPORTUNITY AND ABILITY OF THE WITNESS TO SEE OR HEAR OR KNOW THE THINGS THEY TESTIFIED TO;
2. THE WITNESS' MEMORY;
3. THE WITNESS' MANNER WHILE TESTIFYING;
4. THE WITNESS' INTEREST IN THE OUTCOME OF THE CASE AND ANY BIAS OR PREJUDICE;
5. WHETHER OTHER EVIDENCE CONTRADICTED THE WITNESS' TESTIMONY;
6. THE REASONABLENESS OF THE WITNESS' TESTIMONY IN LIGHT OF ALL THE EVIDENCE; AND
7. ANY OTHER FACTORS THAT BEAR ON BELIEVABILITY.

THE WEIGHT OF THE EVIDENCE AS TO A FACT DOES NOT NECESSARILY DEPEND ON THE NUMBER OF WITNESSES WHO TESTIFY.

12. **EVIDENCE: STATEMENTS BY DEFENDANT**

YOU HAVE HEARD TESTIMONY THAT THE DEFENDANT MADE CERTAIN
STATEMENTS. IT IS FOR YOU TO DECIDE:

1. WHETHER THE DEFENDANT MADE ANY STATEMENT; AND
2. IF SO, HOW MUCH WEIGHT TO GIVE IT.

IN MAKING THOSE DECISIONS, YOU SHOULD CONSIDER ALL OF THE
EVIDENCE ABOUT THE STATEMENT, INCLUDING THE CIRCUMSTANCES UNDER
WHICH IT MAY HAVE BEEN MADE.

1 **13. TRIAL ON CHARGES IN THE INDICTMENT**

2 THE DEFENDANT IS ON TRIAL ONLY FOR THE CRIMES CHARGED IN THE
3 INDICTMENT, NOT FOR ANY OTHER ACTIVITIES. YOUR DETERMINATION MUST BE
4 MADE ONLY FROM THE EVIDENCE IN THE CASE. YOU SHOULD CONSIDER
5 EVIDENCE ABOUT THE ACTS, STATEMENTS, AND INTENTIONS OF OTHERS, OR
6 EVIDENCE ABOUT OTHER ACTS OF THE DEFENDANT, ONLY AS THEY RELATE TO
7 THESE CHARGES AGAINST THIS DEFENDANT.

14. **TESTIMONY OF CO-CONSPIRATOR WITH PLEA AGREEMENT**

YOU HAVE HEARD TESTIMONY FROM ROSE MAYO OMAR REYES, A
WITNESS WHO HAS BEEN CHARGED AND HAS ENTERED INTO A PLEA AGREEMENT
WITH THE GOVERNMENT IN CONNECTION WITH THIS CASE. HOWEVER, HER
GUILTY PLEA CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF THIS
DEFENDANT'S GUILT. THE GUILTY PLEA CAN BE CONSIDERED BY YOU ONLY FOR
THE PURPOSE OF DETERMINING HOW MUCH, IF AT ALL, TO RELY ON HER
TESTIMONY.

IN EVALUATING MS. REYES' TESTIMONY, YOU SHOULD CONSIDER THE
EXTENT TO WHICH OR WHETHER HER TESTIMONY MAY HAVE BEEN INFLUENCED
BY THAT PLEA AGREEMENT WITH THE GOVERNMENT AND HER HOPE OF
RECEIVING FAVORABLE TREATMENT. IN ADDITION, YOU SHOULD EXAMINE HER
TESTIMONY WITH GREATER CAUTION THAN THAT OF OTHER WITNESSES.

15. COUNT ONE--CONSPIRACY: ELEMENTS OF THE OFFENSE

THE DEFENDANT IS CHARGED IN COUNT ONE OF THE INDICTMENT WITH CONSPIRING TO SUBMIT AN APPLICATION FOR A UNITED STATES PASSPORT WHILE KNOWING THAT SAID APPLICATION CONTAINED FALSE INFORMATION. IN ORDER FOR YOU TO FIND THE DEFENDANT GUILTY OF THIS CHARGE, THE GOVERNMENT MUST PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT:

FIRST, THERE WAS AN AGREEMENT BETWEEN TWO OR MORE PERSONS TO COMMIT AT LEAST ONE CRIME AS CHARGED IN THE INDICTMENT;

SECOND, THE DEFENDANT, MOHAMAD RUHUL AMIN, BECAME A MEMBER OF THE CONSPIRACY KNOWING AT LEAST ONE OF ITS OBJECTS AND INTENDING TO HELP ACCOMPLISH IT; AND

THIRD, ONE OF THE MEMBERS OF THE CONSPIRACY PERFORMED AT LEAST ONE OVERT ACT FOR THE PURPOSE OF CARRYING OUT THE CONSPIRACY, WITH ALL OF YOU AGREEING ON A PARTICULAR OVERT ACT THAT YOU FIND WAS COMMITTED.

I SHALL DISCUSS WITH YOU BRIEFLY THE LAW RELATING TO EACH OF THESE ELEMENTS. A CONSPIRACY IS A KIND OF CRIMINAL PARTNERSHIP--AN AGREEMENT OF TWO OR MORE PERSONS TO COMMIT ONE OR MORE CRIMES. THE CRIME OF CONSPIRACY IS THE AGREEMENT TO DO SOMETHING UNLAWFUL; IT DOES NOT MATTER WHETHER THE CRIME AGREED UPON WAS COMMITTED.

FOR A CONSPIRACY TO HAVE EXISTED, IT IS NOT NECESSARY THAT THE CONSPIRATORS MADE A FORMAL AGREEMENT OR THAT THEY AGREED ON EVERY DETAIL OF THE CONSPIRACY. IT IS NOT ENOUGH, HOWEVER, THAT THEY SIMPLY MET, DISCUSSED MATTERS OF COMMON INTEREST, ACTED IN SIMILAR WAYS, OR PERHAPS HELPED ONE ANOTHER. YOU MUST FIND THAT THERE WAS A PLAN TO COMMIT AT LEAST ONE OF THE CRIMES ALLEGED IN THE INDICTMENT AS AN OBJECT OF THE CONSPIRACY, WITH ALL OF YOU AGREEING AS TO THE PARTICULAR CRIME THAT THE CONSPIRATORS AGREED TO COMMIT.

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2 ONE BECOMES A MEMBER OF A CONSPIRACY BY WILLFULLY
3 PARTICIPATING IN THE UNLAWFUL PLAN WITH THE INTENT TO ADVANCE OR
4 FURTHER SOME OBJECT OR PURPOSE OF THE CONSPIRACY, EVEN THOUGH THE
5 PERSON DOES NOT HAVE FULL KNOWLEDGE OF ALL THE DETAILS OF THE
6 CONSPIRACY. FURTHERMORE, ONE WHO WILLFULLY JOINS AN EXISTING
7 CONSPIRACY IS AS RESPONSIBLE FOR IT AS THE ORIGINATORS. ON THE OTHER
8 HAND, ONE WHO HAS NO KNOWLEDGE OF A CONSPIRACY, BUT HAPPENS TO
9 ACT IN A WAY WHICH FURTHERS SOME OBJECT OR PURPOSE OF THE
10 CONSPIRACY, DOES NOT THEREBY BECOME A CONSPIRATOR. SIMILARLY, A
11 PERSON DOES NOT BECOME A CONSPIRATOR MERELY BY ASSOCIATING WITH
12 ONE OR MORE PERSONS WHO ARE CONSPIRATORS, NOR MERELY BY KNOWING
13 THAT A CONSPIRACY EXISTS.
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1 **16. COUNT ONE--CONSPIRACY: DURATION AND NATURE OF**
2 **PARTICIPATION**

3 A CONSPIRACY MAY CONTINUE FOR A LONG PERIOD OF TIME AND MAY
4 INCLUDE THE PERFORMANCE OF MANY TRANSACTIONS. IT IS NOT NECESSARY
5 THAT ALL MEMBERS OF THE CONSPIRACY JOIN AT THE SAME TIME; ONE MAY
6 BECOME A MEMBER OF A CONSPIRACY WITHOUT FULL KNOWLEDGE OF ALL THE
7 DETAILS OF THE UNLAWFUL SCHEME, OR OF THE NAMES, IDENTITIES, OR
8 LOCATIONS OF ALL OF THE OTHER MEMBERS.
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1 **17. COUNT ONE--CONSPIRACY: AS CHARGED IN THE INDICTMENT**

2 YOU MUST DECIDE WHETHER THE CONSPIRACY CHARGED IN THE
3 INDICTMENT EXISTED, AND, IF IT DID, WHO AT LEAST SOME OF ITS MEMBERS
4 WERE. IF YOU FIND THAT THE CONSPIRACY CHARGED DID NOT EXIST, THEN YOU
5 MUST RETURN A NOT GUILTY VERDICT ON THAT CHARGE, EVEN THOUGH YOU
6 MAY FIND THAT SOME OTHER CONSPIRACY EXISTED. SIMILARLY, IF YOU FIND
7 THAT THE DEFENDANT WAS NOT A MEMBER OF THE CHARGED CONSPIRACY,
8 THEN YOU MUST FIND THE DEFENDANT NOT GUILTY, EVEN THOUGH THE
9 DEFENDANT MAY HAVE BEEN A MEMBER OF SOME OTHER CONSPIRACY.
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18. COUNT TWO—FALSE STATEMENT IN APPLICATION FOR A PASSPORT:
ELEMENTS OF THE OFFENSE

THE DEFENDANT IS CHARGED IN COUNT TWO OF THE INDICTMENT
WITH KNOWINGLY AND INTENTIONALLY MAKING A FALSE STATEMENT IN AN
APPLICATION FOR A PASSPORT WITH THE INTENT TO SECURE THE ISSUANCE OF
A PASSPORT UNDER THE AUTHORITY OF THE UNITED STATES, IN VIOLATION
OF SECTION 1542 OF TITLE 18 OF THE UNITED STATES CODE. IN ORDER FOR THE
DEFENDANT TO BE FOUND GUILTY OF THAT CHARGE, THE GOVERNMENT
MUST PROVE BEYOND A REASONABLE DOUBT:

*FIRST, THAT THE DEFENDANT, MOHAMAD RUHUL AMIN, KNOWINGLY AND
INTENTIONALLY MADE A FALSE STATEMENT ON AN APPLICATION FOR A
UNITED STATES PASSPORT, AND*

*SECOND, THE DEFENDANT INTENDED TO SECURE THE ISSUANCE OF A
UNITED STATES PASSPORT.*

19. **COUNT THREE-SUBORNATION OF PERJURY: ELEMENTS OF THE OFFENSE**

THE DEFENDANT IS CHARGED IN COUNT THREE WITH SUBORNATION OF PERJURY IN VIOLATION OF SECTION 1622 OF TITLE 18 OF THE UNITED STATES CODE. IN ORDER FOR THE DEFENDANT TO BE FOUND GUILTY OF THAT CHARGE, THE GOVERNMENT MUST PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT:

FIRST, THE DEFENDANT, MOHAMAD RUHUL AMIN, PERSUADED ANOTHER PERSON TO MAKE AT LEAST ONE FALSE STATEMENT UNDER PENALTY OF PERJURY;

SECOND, ROSE MAYO OMAR REYES FALSELY STATED UNDER PENALTY OF PERJURY THAT THE DEFENDANT WAS HER SPOUSE AND/OR THAT HER NAME WAS ROSE MAYO AMIN;

THIRD, THE STATEMENT WAS MATERIAL TO THE APPLICATION; AND

FOURTH, ROSE MAYO OMAR REYES KNEW THE STATEMENT WAS FALSE.

20. AIDING AND ABETTING

A DEFENDANT MAY BE FOUND GUILTY EVEN IF THE DEFENDANT PERSONALLY DID NOT COMMIT THE ACT OR ACTS CONSTITUTING THE CRIME BUT AIDED AND ABETTED IN ITS COMMISSION. TO PROVE THE DEFENDANT GUILTY OF AIDING AND ABETTING, THE GOVERNMENT MUST PROVE BEYOND A REASONABLE DOUBT:

FIRST, THE CRIME CHARGED IN THE INDICTMENT WAS COMMITTED BY SOMEONE;

SECOND, THE DEFENDANT KNOWINGLY AND INTENTIONALLY AIDED, COUNSELED, COMMANDED, INDUCED OR PROCURED THAT PERSON TO COMMIT EACH ELEMENT OF THE CRIME CHARGED; AND

THIRD, THE DEFENDANT ACTED BEFORE THE CRIME WAS COMPLETED.

IT IS NOT ENOUGH THAT THE DEFENDANT MERELY ASSOCIATED WITH THE PERSON COMMITTING THE CRIME, OR UNKNOWINGLY OR UNINTENTIONALLY DID THINGS THAT WERE HELPFUL TO THAT PERSON, OR WAS PRESENT AT THE SCENE OF THE CRIME. THE EVIDENCE MUST SHOW BEYOND A REASONABLE DOUBT THAT THE DEFENDANT ACTED WITH THE KNOWLEDGE AND INTENTION OF HELPING THAT PERSON COMMIT THE CRIME BEING CHARGED.

THE GOVERNMENT IS NOT REQUIRED TO PROVE PRECISELY WHICH DEFENDANT ACTUALLY COMMITTED THE CRIME AND WHICH DEFENDANT AIDED AND ABETTED.

21. **DEFINITION: MARRIAGE**

TO DETERMINE GUILT OR INNOCENCE AS TO ANY OF THE CHARGES, YOU MUST FIRST DECIDE WHETHER THE MARRIAGE BETWEEN THE DEFENDANT AND ROSE MAYO OMAR REYES WAS VALID OR FRAUDULENT. THE FOLLOWING WILL BE HELPFUL TO YOU IN REACHING THIS DETERMINATION:

REQUIREMENTS FOR VALID MARRIAGE CONTRACT UNDER C.N.M.I. LAW:

IN ORDER FOR A MARRIAGE CONTRACT BETWEEN A NON-CITIZEN AND A UNITED STATES CITIZEN TO BE VALID, C.N.M.I. FAMILY LAW REQUIRES THAT:

1. THE MALE BE AT LEAST 18 YEARS OF AGE AT THE TIME OF THE CONTRACT AND THE FEMALE BE AT LEAST SIXTEEN YEARS OF AGE;
2. NEITHER PARTY HAS A LAWFUL LIVING SPOUSE; AND
3. THE CEREMONY IS CONDUCTED BY AN AUTHORIZED PERSON.

PROCEDURES FOR MARRIAGE UNDER C.N.M.I. LAW:

THE PROCEDURE FOR GETTING MARRIED ACCORDING TO C.N.M.I. FAMILY LAW IS AS FOLLOWS:

1. THE COUPLE FILES AN APPLICATION WITH THE GOVERNOR OR MAYOR, INCLUDING EACH PARTY'S NAME, AGE, CITIZENSHIP, RESIDENCE, OCCUPATION, WHETHER THEY WERE PREVIOUSLY MARRIED, AND THE MANNER OF DISSOLUTION OF ANY PREVIOUS MARRIAGES.
2. AFTER OBTAINING A MARRIAGE LICENSE, THE MARRIAGE CEREMONY MUST BE PERFORMED IN THE C.N.M.I. BY AN AUTHORIZED PERSON AND BEFORE TWO WITNESSES.

DEFINITION OF MARRIAGE FRAUD UNDER C.N.M.I. LAW:

UNDER C.N.M.I. CRIMINAL LAW, IT IS FRAUDULENT TO ENTER A MARRIAGE FOR THE SOLE PURPOSE OF OBTAINING A LABOR OR IMMIGRATION BENEFIT OR FOR EVADING ANY PROVISION OF THE C.N.M.I. ENTRY AND DEPORTATION ACT, NONRESIDENT WORKERS ACT, OR UNITED STATES IMMIGRATION LAW. IN DETERMINING WHETHER THE MARRIAGE WAS FRAUDULENT, SOME OF THE FACTORS A C.N.M.I. COURT WOULD LOOK AT ARE AS FOLLOWS:

1. WHETHER A SUBSTANTIAL FEE, OTHER THAN A REASONABLE DOWRY, OR OTHER CONSIDERATION WAS GIVEN IN EXCHANGE FOR ENTERING INTO THE MARRIAGE;
2. THAT THE MARRIAGE WAS ANNULLED OR TERMINATED WITHIN TWO YEARS (OTHER THAN THROUGH DEATH OF A SPOUSE);
3. THE SPOUSES HAVE LIVED IN SEPARATE RESIDENCES FOR A SUBSTANTIAL PORTION OF TIME SINCE THEIR MARRIAGE; OR
4. THAT THE SPOUSES HAVE NOT HELD THEMSELVES OUT AS A HUSBAND AND A WIFE DURING THE FIRST TWO YEARS OF MARRIAGE.

1 **22. EFFECT OF DETERMINATION OF FRAUDULENT MARRIAGE**

2 SHOULD YOU DETERMINE THAT THE MARRIAGE WAS NOT VALID, THEN
3 THE LAW SAYS IT IS AS IF THE MARRIAGE NEVER TOOK PLACE. IN OTHER
4 WORDS, A MARRIAGE DETERMINED BY YOU TO BE FRAUDULENT IS A MARRIAGE
5 THAT NEVER EXISTED FOR ANY LEGAL PURPOSE.

23. **ADDITIONAL DEFINITIONS**

THE FOLLOWING DEFINITIONS WILL BE HELPFUL TO YOU:

"FALSE STATEMENT": A FALSE STATEMENT IS AN ASSERTION WHICH IS UNTRUE WHEN MADE AND WHICH IS KNOWN BY THE PERSON MAKING IT TO BE UNTRUE. A STATEMENT MAY ALSO BE FALSE IF THE PURPOSE OF MAKING THE STATEMENT IS TO ACCOMPLISH A FRAUD.

"KNOWINGLY": AN ACT IS DONE KNOWINGLY IF THE DEFENDANT IS AWARE OF THE FACT AND DOES NOT ACT THROUGH IGNORANCE, MISTAKE, OR ACCIDENT. THE GOVERNMENT IS NOT REQUIRED TO PROVE THAT THE DEFENDANT KNEW THAT HIS ACTS OR OMISSIONS WERE UNLAWFUL. YOU MAY CONSIDER EVIDENCE OF THE DEFENDANT'S WORDS, ACTS, OR OMISSIONS, ALONG WITH ALL THE OTHER EVIDENCE, IN DECIDING WHETHER THE DEFENDANT ACTED KNOWINGLY.

1 **24. EACH COUNT A SEPARATE CRIME**

2 A SEPARATE CRIME IS CHARGED AGAINST THE DEFENDANT IN EACH
3 COUNT. YOU MUST DECIDE THE CASE ON EACH CRIME CHARGED AGAINST THE
4 DEFENDANT SEPARATELY. YOUR VERDICT ON ANY COUNT SHOULD NOT
5 CONTROL YOUR VERDICT ON ANY OTHER COUNT. ALL OF THE INSTRUCTIONS
6 APPLY TO EACH COUNT UNLESS I INSTRUCT YOU OTHERWISE.

1 **25. CONDUCT OF DELIBERATIONS**

2 WHEN YOU BEGIN YOUR DELIBERATIONS, YOU SHOULD ELECT ONE
3 MEMBER OF THE JURY AS YOUR FOREPERSON. THAT PERSON WILL PRESIDE
4 OVER THE DELIBERATIONS AND SPEAK FOR YOU HERE IN COURT. YOU WILL
5 THEN DISCUSS THE CASE WITH YOUR FELLOW JURORS TO REACH AGREEMENT IF
6 YOU CAN DO SO. YOUR VERDICT, WHETHER GUILTY OR NOT GUILTY, MUST BE
7 UNANIMOUS.

8 EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT YOU
9 SHOULD DO SO ONLY AFTER YOU HAVE CONSIDERED ALL OF THE EVIDENCE,
10 DISCUSSED IT FULLY WITH THE OTHER JURORS, AND LISTENED TO THE VIEWS OF
11 YOUR FELLOW JURORS.

12 DO NOT BE AFRAID TO CHANGE YOUR OPINION IF THE DISCUSSION
13 PERSUADES YOU THAT YOU SHOULD, BUT DO NOT COME TO A DECISION SIMPLY
14 BECAUSE OTHER JURORS THINK IT IS RIGHT.

15 IT IS IMPORTANT THAT YOU ATTEMPT TO REACH A UNANIMOUS
16 VERDICT BUT, OF COURSE, ONLY IF EACH OF YOU CAN DO SO AFTER HAVING
17 MADE YOUR OWN CONSCIENTIOUS DECISION. DO NOT CHANGE AN HONEST
18 BELIEF ABOUT THE WEIGHT AND EFFECT OF THE EVIDENCE SIMPLY TO REACH A
19 VERDICT.

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1 **26. JUROR NOTES**

2 SOME OF YOU HAVE TAKEN NOTES DURING THE TRIAL. WHETHER OR NOT
3 YOU TOOK NOTES, YOU SHOULD RELY ON YOUR OWN MEMORY OF WHAT WAS
4 SAID. NOTES ARE ONLY TO ASSIST YOUR MEMORY. YOU SHOULD NOT BE
5 OVERLY INFLUENCED BY THE NOTES.

1 **27. PUNISHMENT IRRELEVANT**

2 THE PUNISHMENT PROVIDED BY LAW FOR THIS CRIME IS FOR THE COURT
3 TO DECIDE. YOU MAY NOT CONSIDER PUNISHMENT IN DECIDING WHETHER THE
4 GOVERNMENT HAS PROVED ITS CASE AGAINST THE DEFENDANT BEYOND A
5 REASONABLE DOUBT.

1 **28. BASIS OF VERDICT**

2 YOUR VERDICT MUST BE BASED SOLELY ON THE EVIDENCE AND ON THE
3 LAW AS I HAVE GIVEN IT TO YOU IN THESE INSTRUCTIONS. HOWEVER, NOTHING
4 THAT I HAVE SAID OR DONE IS INTENDED TO SUGGEST WHAT YOUR VERDICT
5 SHOULD BE—THAT IS ENTIRELY FOR YOU TO DECIDE.

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1 **29. VERDICT FORM**

2 A VERDICT FORM HAS BEEN PREPARED FOR YOU. AFTER YOU HAVE
3 REACHED A UNANIMOUS AGREEMENT ON A VERDICT, YOUR FOREPERSON WILL
4 FILL IN THE FORM THAT HAS BEEN GIVEN TO YOU, SIGN AND DATE IT, AND
5 ADVISE THE BAILIFF THAT YOU ARE READY TO RETURN TO THE COURTROOM.

1 **30. COMMUNICATION WITH THE COURT**

2 IF IT BECOMES NECESSARY DURING YOUR DELIBERATIONS TO
3 COMMUNICATE WITH ME, YOU MAY SEND A NOTE THROUGH THE BAILIFF,
4 SIGNED BY YOUR FOREPERSON OR BY ONE OR MORE MEMBERS OF THE JURY. NO
5 MEMBER OF THE JURY SHOULD EVER ATTEMPT TO COMMUNICATE WITH ME
6 EXCEPT BY A SIGNED WRITING, AND I WILL RESPOND TO THE JURY CONCERNING
7 THE CASE ONLY IN WRITING, OR HERE IN OPEN COURT. IF YOU SEND OUT A
8 QUESTION, I WILL CONSULT WITH THE LAWYERS BEFORE ANSWERING IT, WHICH
9 MAY TAKE SOME TIME. YOU MAY CONTINUE YOUR DELIBERATIONS WHILE
10 WAITING FOR THE ANSWER TO ANY QUESTION. REMEMBER THAT YOU ARE NOT
11 TO TELL ANYONE—INCLUDING ME—HOW THE JURY STANDS, NUMERICALLY OR
12 OTHERWISE, ON THE QUESTION OF THE GUILT OF THE DEFENDANT, UNTIL AFTER
13 YOU HAVE REACHED A UNANIMOUS VERDICT OR HAVE BEEN DISCHARGED.